

UNITED STATES DISTRICT COURT
Northern District of California

PATRICIA HERBORN,

No. C 11-00013 SBA

Plaintiff(s),

**ORDER RE: REFERENCE TO
MAGISTRATE JUDGE FOR R&R**

v.

MICHAEL ASTRUE,

Defendant(s).

On June 14, 2011, the above-captioned matter was referred to a magistrate judge for a report and recommendation regarding Plaintiff Patricia Herborn's Motion for Summary Judgment. (Dkt. No. 15). Recognizing that it is the policy of the Court to promote the efficient utilization of magistrate judges and to avoid the unnecessary duplication of judicial action, the judges of this district have established certain limitations on matters referred to magistrate judges. Specifically, General Order No. 42 provides that civil pretrial matters that are dispositive of a claim or defense and require a de novo review by a district judge under Federal Rule of Civil Procedure 72(b) shall not be referred to a magistrate judge unless: (a) the parties consent to final disposition of the matter by a magistrate judge; or (b) the matter requires an evidentiary hearing which can be conducted by a magistrate judge without being repeated before a district judge. Case dispositive matters include motions for summary judgment, for judgment on the pleadings, for injunctive relief, to dismiss for failure to state a claim upon which relief can be granted, to dismiss or permit maintenance of a class action, and to involuntarily dismiss an action. *See* General Order No. 42; 28 U.S.C. § 636(b)(1)(A).

Because the matter referred in this case is either dispositive in nature or would require a de novo evidentiary hearing before the presiding judge, it appears that it is not appropriately before a magistrate judge for consideration pursuant to General Order No. 42. Accordingly, the undersigned

1 hereby ORDERS that the referral to the assigned magistrate judge is VACATED, and the matter shall
2 be returned to the presiding judge for disposition.

3 **IT IS SO ORDERED.**

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5 Dated: June 16, 2011

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8 Maria-Elena James
9 Chief United States Magistrate Judge
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